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Patricia A. Kammerer
HOWREY SIMON ARNOLD & WHITE, LLP
750 Bering Drive
Houston TX 77057-2198

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OFFICE OF PETITIONS

In re Application of
Meheus et al.
Application No. 10/056,407
Filed: January 24, 2002
Attorney Docket No. INNS:011-1
11362.0011.DVU

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 15, 2004, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to an Office Action mailed December 3, 2003. The Office Action set a one (1) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on January 4, 2004. A Notice of Abandonment was mailed on October 6, 2004.

This petition is hereby **GRANTED**.

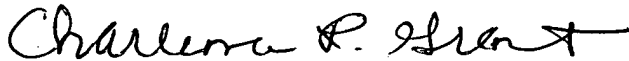
The Office hereby acknowledges the receipt of the Response to the Restriction and Election Requirement submitted with the instant petition.

As to petitioner's request for a refund of the \$1370 petition fee, the petition fee will not be refunded. 35 U.S.C. 41(a)(7) provides that a petition for revival of an unintentionally abandoned application . . . must be accompanied by a petition fee set for in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding abandonment (i.e., it is determined that the application is not properly held abandoned), the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived.

Further, any arguments petitioner seeks to make with regard to the appropriateness of the Restriction Requirement should have been addressed to the Director of Technology Center 1600 pursuant to 37 CFR 1.181. See MPEP 1002.02 (c).

This application is being forwarded to Technology Center 1600 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

A handwritten signature in black ink, appearing to read "Charlema R. Grant", with a stylized flourish at the end.

Charlema R. Grant
Petitions Attorney
Office of Petitions